

UNITED STATES OF AMERICA)
)
 V.) CAUSE NO. 2:06 CR 63
)
VIKRAM BUDDHI

Comes now the United States of America by Joseph S. Van Bokkelen, United States Attorney for the Northern District of Indiana, through Assistant United States Attorney Philip Benson, and hereby files its response to the defendant's motion for immediate dismissal of the eleven count indictment based upon the government's failure to file a response to defendant's motion to dismiss, and in support of this response states as follows.

2. On March 9, 2007, a pretrial conference was held before Magistrate Judge Andrew Rodovich. At that time, Judge Rodovich ordered the government to file a response to the pending motions by March 23, 2007.

3. On March 23, 2007 the government filed a motion for extension of time to file its written responses up to and including March 30, 2007.

4. On March 27, 2007, the government requested an additional three day continuance to file a written response to the defendant's motions. That request was granted and the government's response was due on March 30, 2007.

5. On April 3, 2007, two business days after the government's response was due, the defense filed a motion for the immediate dismissal of the indictment due to the government's failure to respond.

6. Unbeknownst to the defense counsel, and simultaneously with the response deadline set in this matter, the undersigned counsel was engaged in pretrial proceedings in the case of *United States v. Eric Zahursky*, cause no. 2:06 CR 109 RL.

7. On the very same day that the government requested a three day continuance to file its response to Buddhi's motions (March 27, 2007), a motion to suppress hearing was held in the *Zahursky* matter (*United States v. Zahursky*, cause no. 2:06 CR 109 RL, R.48). The government had originally anticipated filing its response to Buddhi's motions in the three days following the *Zahursky* suppression hearing. However, at the close of the suppression hearing, the *Zahursky* court ordered the government to file a brief by March 29, 2007, regarding the issues raised in the *Zahursky* suppression hearing. Due to the complexity of the issues involved in that motion to suppress, the government was unable to complete its ten page response until March 30, 2007, the same date that the court had ordered the government to respond in the Vikram Buddhi matter.

8. Additionally, in the *Zahursky* matter, the government was also ordered to respond to the defendant's motion in liming regarding 404(b) evidence. The government response to

Zahursky's motion to limine was due on April 4, 2007. That response was timely filed and jury selection commenced in the *Zahursky* matter on April 5, 2007. It is anticipated that the government will be in trial on that matter through April 10, 2007.

9. The undersigned AUSA is the sole attorney handling both the *Zahursky* and *Buddhi* cases.

10. The undersigned believes responses to the relevant motions filed in the *Buddhi* matter can be completed by April 13, 2007. The defendant is currently on bond and a jury trial is set in this matter for June 25, 2007.

WHEREFORE, the government respectfully requests that the Court deny the defendant's motion for immediate dismissal of the eleven count indictment based on the government's failure to file a response to the defendant's motion to dismiss and allow the government up to April 13, 2007, to file its response to defendant's motions.

Respectfully submitted,

JOSEPH S. VAN BOKKELEN
UNITED STATES ATTORNEY

S/ Philip C. Benson
Philip C. Benson
Assistant United States Attorney

Certificate of Service

I hereby certified that April 6, 2007, I filed the **GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR IMMEDIATE DISMISSAL OF THE ELEVEN COUNT INDICTMENT BASED UPON THE GOVERNMENT'S FAILURE TO FILE A RESPONSE TO DEFENDANT'S MOTION TO DISMISS** with the Clerk of the Court; such filing to be made to the following:

by electronic filing:

John E. Martin (john_martin@fd.org)

and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

NONE

S/ Sandra M. Clanin

Legal Assistant